

PATTY LOVAAS, Pro Se  
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**FILED**  
**OCT 23 2008**  
By PATRICK E. DUFFY, CLERK  
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

PATTY LOVAAS )

Plaintiff )

v. )

Civil Action No. CV-08-153-M-DWM-JCL

BRAD JOHNSON, in his official )  
capacity as Secretary of State of the )  
State of Montana, )

Defendant )

**COMPLAINT**

**Nature of Case**

1. This is an action under 18 U.S.C. §§ 241 and 242 to enforce rights guaranteed to the plaintiff by the First and Fourteenth Amendments to the United States Constitution. At issue is the integrity of Montana's 2008 official primary election results for U.S. Senate to select the Republican nominee to run in the November general election. The plaintiff seeks injunctive relief requiring the defendant to conduct a manual audit of the 2008 primary election votes for U.S. Senate to confirm the official results.

**Jurisdiction and Venue**

2. This Court has original jurisdiction over this case pursuant to Article III of the United States Constitution and 28 U.S.C. §§ 1331 and 1343(a)(3).
3. This suit is authorized by 18 U.S.C. § 241 and 242.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.
5. Venue is proper in the District of Montana pursuant to 28 U.S.C. § 1391(b).

#### **Parties**

6. Plaintiff Patty Lovaas is a United States citizen and a resident of the State of Montana.
7. Patty Lovaas is a registered voter in Missoula County, Montana.
8. Patty Lovaas ran as a Republican candidate in the 2008 primary election.
9. Defendant Brad Johnson is the Secretary of State of the State of Montana and is charged by statute with enforcing the integrity of Montana's voting procedures.
10. Brad Johnson is sued in his official capacity only.

#### **Factual Background**

11. Qualified parties nominate their candidates by primary election, and that candidate appears automatically on the general election ballot. The 2008 official primary election results indicated that Robert Kelleher, by majority vote was the Republican Party nominee for the 2008 general election to be held November 4, 2008.
12. The plaintiff, by canvassing individual voters following the primary election has confirmed substantially different results from the official primary results reported by the defendant per the attached example (exhibit a).

#### **Claim One**

13. Defendant Brad Johnson is the Secretary of State of the State of Montana and is charged by statute with enforcing the integrity of Montana's voting procedures.
14. Plaintiff has substantial evidence through individual voter canvassing that the official

results differ significantly from those reported by individual voters. This in turn violates rights guaranteed to the plaintiff by the First and Fourteenth Amendments to the United States Constitution, as enforced by 42 U.S.C. § 1983.

**Relief**

15. A real and actual controversy exists between the parties.
16. The plaintiff has no adequate remedy at law other than this action for declaratory and injunctive relief.
17. The plaintiff is suffering irreparable harm as a result of the violations complained of herein, and that harm will continue unless enjoined by this Court.

WHEREFORE, the plaintiff respectfully prays that this Court:

- 1). Take original jurisdiction over this case;
- 2). Enter a declaratory judgment that the official 2008 primary election results for the Republican nominee differ significantly from canvassing results conducted by the plaintiff and per MCA 13-35-107 order a manual audit of votes cast in the 2008 primary for U.S. Senate in at least six counties to be chosen by plaintiff to confirm the discrepancy in the official results in addition to comparing the official reported results with the post election canvass conducted by the plaintiff.
- 3). Per MCA 13-35-107, if the violation of any provision of this title by any person probably affected the outcome of any election, the result of the election may be held void and a special election held within 75 days of that finding. If the violation occurred during a primary election, the court may direct the selection

of a new candidate according to the provisions of state law relating to filling of vacancies on the general election ballot.

- 4). Award the plaintiff the cost of this action together with reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
- 5). Retain jurisdiction of this action and grant the plaintiff any further relief which may in the discretion of this Court be necessary and proper.

#### **VERIFICATION OF COMPLAINT**

I, Patty Lovaas, verify, under penalty of perjury that the foregoing complaint is true to the best of my knowledge, information and belief.

Executed this 23<sup>rd</sup> day of October, 2008.

Respectfully submitted,

A handwritten signature in cursive script, reading "Patty L. Lovaas", written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I certify that on the 23rd day of October, 2008, the plaintiff mailed copies to ACI Services, LLP to personally serve the attached complaint and summons by praecipe as follows:

Addressee

Brad Johnson  
Office of the Secretary of State  
PO Box 202801  
Helena, MT 59620-2801

  
Patty L Lovaas